

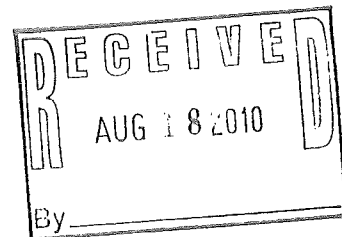
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

JUAN ESTRADA, JR., ROSA) (
ESTRADA, CRISELDA) (
VILLARREAL, ADMINISTRATRIX) (
OF THE ESTATE OF MARICELA) (
TREVINO AND AS NEXT FRIEND) (
OF S.M.L., N.T.L. and R.L.,) (
JR., AND FRANCISCO TREVINO) (
) (
VS.) (CIVIL ACTION NO.
) (09-158
) (
CITY OF WESLACO, ALFREDO) (
MORENO, JR., ALBERT PONCE,) (
WESLACO POLICE CHIEF JOHN) (
DANIEL MARTINEZ, ONE) (
UN-NAMED WESLACO EMS MEDIC,) (
ALEX CAVAZOS and CHRISTOPHER) (
CUELLAR) (

ORAL AND VIDEOTAPED DEPOSITION OF

LYDIA OLALDE

JULY 15, 2010



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1 ORAL AND VIDEOTAPED DEPOSITION OF LYDIA OLALDE,
2 produced as a witness at the instance of the Plaintiffs
3 and duly sworn, was taken in the above-styled and
4 numbered cause on the 15th day of July, 2010, from
5 1:40 p.m. to 5:13 p.m., before GERRI C. RICHARD, CSR in
6 and for the State of Texas, reported by machine
7 shorthand, at the City Manager's Office, City of
8 Weslaco, 255 South Kansas Avenue, Weslaco, Texas,
9 pursuant to the Federal Rules of Civil Procedure and the
10 provisions stated on the record or attached hereto.

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APPEARANCES

FOR THE PLAINTIFFS:

MR. MAURO F. RUIZ
RUIZ LAW FIRM, P.L.L.C.
200 East Cano Street
Edinburg, Texas 78539

FOR THE DEFENDANTS CITY OF WESLACO, ALFREDO MORENO, JR.,
ALBERT PONCE, and WESLACO POLICE CHIEF JOHN DANIEL
MARTINEZ:

MS. ALISON D. KENNAMER
COLVIN, CHANEY, SAENZ & RODRIGUEZ, L.L.P.
1201 East Van Buren Street
Brownsville, Texas 78520

ALSO PRESENT:

MR. CARLOS HINOJOSA, VIDEOGRAPHER
MR. GEORGE HINOJOSA, VIDEOGRAPHER

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1 THE VIDEOGRAPHER: Today's date is
2 July 15, 2010. It's 1:40 p.m. And we're on the record.

3 LYDIA OLALDE,
4 having been duly sworn, testified as follows:

5 EXAMINATION

6 BY MR. RUIZ:

7 Q. Good afternoon, ma'am. Can you please state
8 your full name for the record?

9 A. Lydia Olalde.

10 Q. Okay. Ms. Olalde, my name is Mauro Ruiz, and
11 prior to just a couple of minutes -- strike that
12 question. My name is Mauro Ruiz and I represent the
13 family of Maricela Trevino in this matter against the
14 City of Weslaco and other employees of the City of
15 Weslaco. Is that your understanding?

16 A. Yes.

17 Q. Have you ever been in a setting like this
18 before?

19 A. No.

20 Q. Okay. In speaking to your lawyer prior to this
21 deposition, she explained to you that you're going to
22 provide testimony here today?

23 A. Yes.

24 Q. Okay. And you understand also that the
25 testimony you're about to give is under oath?

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1 A. Yes.

2 Q. And that you've taken an oath to tell the truth
3 here today?

4 A. Yes.

5 Q. Okay. And you also understand that although
6 we're not in a courtroom with a judge and a jury, your
7 testimony here today has the same force and effect as if
8 it were being provided in a courtroom?

9 A. Yes.

10 Q. And by these gentlemen that we have over here,
11 you can tell that your testimony is being videotaped?

12 A. Yes.

13 Q. Okay. And this lady to my right is taking down
14 your verbal responses to my questions. You see that,
15 right?

16 A. Yes.

17 Q. And you understand that later this testimony
18 will be put in a booklet or in a transcript form and
19 that will be the written recording of your -- of your
20 testimony here today?

21 A. Yes.

22 Q. Okay. Did you review any documents for today's
23 deposition, Ms. Olalde?

24 A. No.

25 Q. Did you -- did you review any type of police

1 record or statement?

2 A. No.

3 Q. If you could just speak up a little bit more
4 I'd appreciate it.

5 If at any point -- and this reminds me.
6 If you don't understand my question please let me know.
7 I'll be more than glad to rephrase and clear up any --
8 any question you may have.

9 Also, if -- I need you to provide us with
10 verbal responses so they can be taken down.

11 A. Okay.

12 Q. Okay? And lastly, if you need to take a break
13 please let me know and I'll be more than glad to
14 accommodate your request.

15 A. Okay.

16 Q. Okay? So you did not review any documents to
17 prepare for today's deposition; is that correct?

18 A. Correct.

19 Q. Tell me a little bit about yourself,
20 Ms. Olalde. Are you a -- are you a lifelong resident of
21 Weslaco?

22 A. Yes.

23 Q. Okay. Are you -- were you born and raised in
24 this community?

25 A. Born -- not born here.

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1 Q. Okay. Where were you born?

2 A. Oregon.

3 Q. Oregon. And were you raised in Weslaco?

4 A. Raised in Weslaco.

5 Q. Okay. How old were you when you came to the
6 Rio Grande Valley?

7 A. A newborn.

8 Q. Newborn?

9 A. (Moves head up and down.)

10 Q. Okay. And your family, are they from the
11 Weslaco area?

12 A. Yes.

13 Q. Are you currently married?

14 A. No.

15 Q. Have you ever been married?

16 A. No.

17 Q. Do you have any children?

18 A. No.

19 Q. Okay. Do you have brothers and sisters living
20 in Hidalgo County?

21 A. Yes.

22 Q. How many?

23 A. One sister.

24 Q. One sister. And what is her name?

25 A. Nancy Guerrero.

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1 Q. And what is her husband's name?

2 A. Arnold Guerrero.

3 Q. Are your parents alive?

4 A. My mother, only.

5 Q. Your mother. Okay. What is her name?

6 A. Natividad Olalde.

7 Q. Okay. And where do you currently reside,

8 Ms. Olalde?

9 A. In Weslaco.

10 Q. What is your address?

11 A. 1519 East First.

12 Q. And how long have you been living at this
13 address?

14 A. My whole life.

15 Q. Okay. Is that -- do you live with your mom?

16 A. Yes.

17 Q. Do you live with your sister also?

18 A. No.

19 Q. No? How many people reside with your mom?

20 A. Just me and my mom.

21 Q. Okay. Ms. Olalde, what year did you graduate
22 from high school?

23 A. '97.

24 Q. And I understand Weslaco has two high schools
25 now, so what high school did you graduate from?

1 A. Weslaco High School.

2 Q. Weslaco High School. Was that the only high
3 school back then in '97?

4 A. Yes.

5 Q. Okay. After graduating from Weslaco High
6 School, Ms. Olalde -- well, before I get to those
7 questions, during high school did you take any type of
8 course work that involved working with law enforcement?

9 A. No.

10 Q. During high school, were you employed anywhere?

11 A. Yes.

12 Q. Where were you employed?

13 A. I was in the summer program, the JTPA, at that
14 time.

15 Q. Okay.

16 A. I worked at different schools.

17 Q. And who would assign you to the different
18 schools?

19 A. The JTPA program.

20 Q. Okay. Besides that JTPA job, did you have any
21 other job during high school?

22 A. No.

23 Q. And you said this was during the summers?

24 A. Yes.

25 Q. Was it -- was it a volunteer?

1 A. No.

2 Q. You would get paid?

3 A. Yes.

4 Q. Okay. After graduating from high school, did
5 you pursue a college degree?

6 A. A degree? No.

7 Q. No? Okay. So after high school, have you
8 taken any formal education courses at a local community
9 college or university?

10 A. No.

11 Q. Okay. After high school -- and before I
12 forget, Ms. Olalde, what is your date of birth?

13 A. 7-21-79.

14 Q. Your birthday is coming up.

15 A. Uh-huh.

16 Q. Mine is on the 23rd.

17 Ms. Olalde, after graduating from high
18 school, did you -- were you employed?

19 A. Yes.

20 Q. Where were you employed immediately after
21 graduating from high school?

22 A. Not immediately.

23 Q. Okay.

24 A. Maybe -- about three or four months after I
25 moved to Oregon. I was employed over there.

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1 Q. Okay. And what did you do in Oregon, ma'am?

2 A. Worked at a factory. We would sort out
3 engineering -- well, the manufacturing parts. It was an
4 engineering company.

5 Q. Okay. What city in Oregon?

6 A. Tualatin.

7 Q. What part of Oregon is that in?

8 A. On the north side, just south of Portland.

9 Q. Do you -- do you still have family in Oregon?

10 A. No.

11 Q. Did you have family back then in 1997 when you
12 went over there?

13 A. No.

14 Q. Okay. How long were you at that job,
15 Ms. Olalde?

16 A. Four months.

17 Q. What was the name of your employer back then?

18 A. JAE.

19 Q. Okay. And did you change jobs, or what
20 circumstances led you to --

21 A. Relocated back over here.

22 Q. Oh, you came back over here?

23 A. Yes.

24 Q. Okay. And what year was that?

25 A. In '98.

1 Q. '98?

2 A. Uh-huh.

3 Q. And where were you employed when you returned?

4 A. I wasn't.

5 Q. You weren't?

6 A. No.

7 Q. How long did it take you to find a job?

8 A. Couple months.

9 Q. Okay. And where was your first job -- who was
10 your first employer after coming -- returning from
11 Oregon?

12 A. Maytag Laundry.

13 Q. And that was in 2008?

14 A. '98.

15 Q. I'm sorry. That was in 1998?

16 A. Yes.

17 Q. Okay. Is that a yes?

18 A. Yes.

19 Q. Okay. And what was your job title at Maytag
20 Laundry?

21 A. Just maintenance.

22 Q. And in order to do this maintenance, what were
23 your -- what was your daily routine like?

24 A. I would clean up after the customers. We also
25 had a vending machine, I would -- or a snack bar, sorry,

1 and just deal with customers.

2 Q. Do you remember what month in 1998 you started
3 this job at Maytag Laundry?

4 A. No.

5 Q. Okay. How long were you there at Maytag
6 Laundry?

7 A. About three months.

8 Q. What were the reasons for leaving Maytag
9 Laundry?

10 A. Conflict with employees.

11 Q. Okay. What kind of conflicts?

12 A. I don't remember. We just wouldn't get along.

13 Q. Okay. Was it with other co-workers or was it
14 your supervisor?

15 A. My supervisor.

16 Q. What was your supervisor's name?

17 A. I don't remember.

18 Q. Okay. So after Maytag -- you left voluntarily
19 or --

20 A. Yes.

21 Q. -- did they discharge you?

22 A. Voluntary.

23 Q. Okay. And did you already have another job
24 lined up when you decided to leave?

25 A. No.

1 Q. Okay. So how long did it take you to find your
2 next job?

3 A. About a month.

4 Q. And where -- who was your -- where did you find
5 work?

6 A. As a provider.

7 Q. Okay. And what was the name of -- what's the
8 name of the company?

9 A. IPH Home Health.

10 Q. Where is IPH located?

11 A. In McAllen.

12 Q. And who was your direct supervisor?

13 A. I don't remember.

14 Q. Okay. Ms. Olalde, what year was that? And I
15 don't need the exact date, but just --

16 A. Probably the same year, '98.

17 Q. 1998? Okay. How long did you work as a
18 provider for IPH?

19 A. Over a year.

20 Q. And what happened -- what happened at IPH? Why
21 did you leave IPH?

22 A. I was having problems with one of the -- my
23 patient's sons.

24 Q. So as a provider you get assigned a certain
25 number of patients?

1 A. I only had one patient.

2 Q. One patient.

3 A. Yes.

4 Q. Okay. What were the problems you were having
5 with this person?

6 A. Sexual harassment.

7 Q. Did you file a complaint with your employer?

8 A. No.

9 Q. Did you file a lawsuit?

10 A. No.

11 Q. So what happened; you left?

12 A. Yes. I just left.

13 Q. Did you ever raise that issue to your employer
14 at the time?

15 A. Yes. It was brought up.

16 Q. And what did they tell you?

17 A. It was my friend's family. I brought it up to
18 my friend.

19 Q. So you were working for your friend's family?

20 A. Yes.

21 Q. And what's your friend's name?

22 A. Melanie Page.

23 Q. How do you spell Page?

24 A. P-a-g-e.

25 Q. Okay. Are you still friends with Melanie?

1 A. Yes.

2 Q. Do they still own IPH?

3 A. No.

4 Q. No? And what did you tell -- what did you tell

5 Page -- Ms. Page?

6 A. That I was having some run-ins with her uncle
7 and I couldn't no longer work there.

8 Q. Were you assigned to her uncle's mom --

9 A. Yes.

10 Q. -- or dad?

11 A. Uncle's mom.

12 Q. Okay. And where did you go from IPH,

13 Ms. Olalde?

14 A. To Convergys.

15 Q. And what job title did you have at Convergys?

16 A. Sales, customer service.

17 Q. Was that in 1999 or 2000?

18 A. About 2000.

19 Q. 2000? Did it take you a long time to find work
20 after leaving IPH?

21 A. Yes.

22 Q. Like how many months?

23 A. About five, six months.

24 Q. Five, six months. And so what -- around what
25 month in 2000 did you get hired by Convergys?

1 A. I don't remember.

2 Q. How long were you with Convergys?

3 A. About three, four months.

4 Q. And why did you leave Convergys?

5 A. They were actually lowering -- there wasn't
6 enough hours.

7 Q. So did they lay you off or did you volunteer --

8 A. They started cutting hours --

9 Q. Okay.

10 A. -- so I went ahead and just quit.

11 Q. Because you needed more work?

12 A. Yes.

13 Q. Who was your direct supervisor at Convergys
14 during that time?

15 A. I don't remember his full name. First name was
16 Manny.

17 Q. Okay. Did you -- did you already have a job
18 lined up when you decided to leave Convergys?

19 A. No.

20 Q. Did you look for -- did it take you a couple of
21 months to find work?

22 A. Yes.

23 Q. Like how many?

24 A. About two.

25 Q. And where did you find employment?

1 A. Wal-Mart.

2 Q. And what was your job at Wal-Mart, Ms. Olalde?

3 A. Customer service.

4 Q. And as a customer service employee of Wal-Mart,
5 what did -- what were your job duties?

6 A. To -- I was in charge of the ladies department.
7 I would just pick up clothes, sort them out, rearrange
8 them.

9 Q. And how long were you at Wal-Mart?

10 A. For about -- for about a year and a half, two
11 years.

12 Q. And you started working at Wal-Mart in what
13 year?

14 A. In 2000.

15 Q. And what was your -- what was your reason for
16 leaving Wal-Mart?

17 A.- Better employment.

18 Q. Okay. And what -- what month and what year?
19 What year -- when did you leave Wal-Mart?

20 A. In 2002.

21 Q. 2002?

22 A. Uh-huh.

23 Q. Okay. And so did you -- did you interview
24 first while you were still working for Wal-Mart and then
25 you found this other job or --

1 A. No.

2 Q. You decided to quit?

3 A. Yes.

4 Q. And then was there some time in between -- did
5 it take you some time to find a job?

6 A. About a month or two.

7 Q. About a month. Okay. And that was in 2002,
8 you said, right?

9 A. Yes.

10 Q. And where was -- where did you find work?

11 A. With the city.

12 Q. City of Weslaco?

13 A. Yes.

14 Q. Okay. And did you have any family members who
15 were employed by the City of Weslaco at that time?

16 A. No.

17 Q. Do you have any right now?

18 A. No.

19 Q. And what job -- what was the job posting that
20 you responded to?

21 A. Dispatcher.

22 Q. And that was in what month in 2002?

23 A. That I applied or hired?

24 Q. That you applied.

25 A. In June.

1 Q. Did you get hired that same month?

2 A. No. No, correction. I applied in January.

3 Q. January 2002. Okay.

4 A. Yes.

5 Q. Boy, you have a good memory, Ms. Olalde.

6 And you applied in January and what month
7 did you get hired?

8 A. February.

9 Q. February of 2002?

10 A. Yes.

11 Q. Okay. And did you go through -- did you fill
12 out a job application?

13 A. Yes.

14 Q. Did you go through an interviewing process?

15 A. Yes.

16 Q. Who interviewed you for your job as dispatcher?

17 A. Sergeant Philip Sotelo.

18 Q. Anyone else?

19 A. No.

20 Q. And is Sergeant Philip Sotelo still with the
21 City of Weslaco?

22 A. No.

23 Q. Okay. And when he interviewed you, what kind
24 of employee was he, or what department did he work for?

25 A. Communications.

1 Q. Okay. And communications is a section of the
2 Weslaco Police Department; is that correct?

3 A. Yes.

4 Q. Do you know where Sergeant Sotelo went to? Do
5 you know where he's working right now?

6 A. At the Harlingen airport.

7 Q. And what was your job description as
8 dispatcher?

9 A. To receive phone calls from the public using a
10 regular land line or the 911 system. We would dispatch
11 fire, EMS, and police.

12 Q. So you identified two types of lines, right,
13 the regular land line --

14 A. Yes.

15 Q. -- and the 911 service?

16 A. Yes.

17 Q. Okay. Any other -- any other dedicated lines?

18 A. No.

19 Q. Okay. And you said you would dispatch -- who
20 did you -- who would you dispatch?

21 A. Police, fire, EMS.

22 Q. Okay. And you started this job in February of
23 2002, correct?

24 A. Yes.

25 Q. And the type -- when you would respond -- let's

1 say you had to answer a call from the regular land line,
2 what phrase would you -- would you use in order to
3 respond to that call?

4 A. Weslaco Police Department.

5 MS. KENNAMER: And I'm sorry, I wasn't --
6 was that the 911 line or the regular land line?

7 MR. RUIZ: Regular.

8 MS. KENNAMER: Okay.

9 Q. Okay.

10 A. Regular.

11 Q. Let me ask you again. When you would answer
12 the regular land line, what was the first phrase that
13 you would use to answer that call?

14 A. Weslaco Police Department.

15 Q. Okay. Was that a requirement? Did your
16 supervisor instruct you to answer in that way?

17 A. No.

18 Q. Okay. Why would you answer in that way?

19 A. We could use any greeting from Weslaco Police
20 Department to Weslaco Public Safety.

21 Q. There was no set phrase that was required?

22 A. Yes.

23 Q. And if you received a call through the 911
24 service, would you answer that call in any particular
25 way?

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1 A. 911? Yes.

2 Q. What would you -- what phrase would you use?

3 A. Weslaco 911, state your emergency.

4 Q. Are you still employed as a dispatcher for the
5 communications department of the Weslaco PD?

6 A. Yes.

7 Q. Is that the only department at the City of
8 Weslaco PD that you've worked for?

9 A. Yes.

10 Q. And your job title on or before May 17th of
11 2007 was dispatcher?

12 A. Yes.

13 Q. And as you sit here today, your job title is
14 still dispatcher; is that correct?

15 A. Yes.

16 Q. Has your job title changed in any of this
17 period from February of 2002 to the present?

18 A. No.

19 Q. Okay. And when you were employed for the first
20 time in February of 2002, were you a full-time employee?

21 A. Yes.

22 Q. Have you always been a full-time employee?

23 A. Yes.

24 Q. And by full-time employee, you've worked 40
25 hours a week?

1 A. Yes.

2 Q. Were you allowed to work overtime?

3 A. Yes.

4 Q. And what's the most overtime hours you've --
5 you've put in?

6 A. About 16.

7 Q. 16? Okay. And what are the types of -- when
8 you were first -- when you first started working for the
9 City of Weslaco PD, what was your shift you were
10 assigned to?

11 A. Graveyard.

12 Q. And what are those hours?

13 A. At that time, 11:00 p.m. to 6:00 a.m. -- 7:00,
14 7:00 a.m. I'm sorry.

15 Q. Did the -- you said "at that time." Did
16 that -- those times change?

17 A. Yes.

18 Q. Okay. So the graveyard shift, in what year
19 did that -- did those hours change?

20 A. They would rotate every two months.

21 Q. Okay. So when you first were employed by the
22 Weslaco PD, you worked the 11:00 through 7:00 --
23 11:00 p.m. shift through 7:00 a.m. in the morning?

24 A. Yes.

25 Q. And how long did you have that shift?

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1 A. For two months.

2 Q. Two months. Has the graveyard shift, and I
3 mean during your time of employment here, has it always
4 been 11:00 p.m. to 7:00 a.m.?

5 A. No.

6 Q. Okay. When did it change, Ms. Olalde?

7 A. About four months ago.

8 Q. Okay. What is the -- what is that -- what are
9 the hours that make up the graveyard shift now?

10 A. 10:00 p.m. to 6:00 a.m.

11 Q. Do you know why the shift hours changed?

12 A. No.

13 Q. Okay. And you said that your shift would
14 change every two months?

15 A. Yes.

16 Q. And how many shifts are there in a regular
17 workday?

18 A. Three.

19 Q. Three? What are they?

20 A. 10:00 p.m. to 6:00 a.m., 6:00 a.m. to
21 2:00 p.m., and then 2:00 p.m. to 10:00 p.m.

22 Q. Okay. And let's say back in May of 2007, what
23 were the shifts back then?

24 A. They were 7:00 a.m. to 3:00, 3:00 p.m. to
25 11:00, 11:00 to 7:00.

1 Q. Have you at any point ever supervised any
2 employees?

3 A. Yes.

4 Q. Okay. When did you supervise employees?

5 A. Within the last three years.

6 Q. Okay. So from 2007 to now?

7 A. Yes.

8 Q. Okay. What month in 2007?

9 A. It was actually in November of 2006.

10 Q. And who -- who asked you to supervise
11 employees?

12 A. My supervisor.

13 Q. Who was your supervisor at the time back then?

14 A. Israel Trevino.

15 Q. Is Mr. Trevino still employed by the City of
16 Weslaco?

17 A. Yes.

18 Q. Is he still the supervisor over the
19 communications department?

20 A. Yes.

21 Q. Is he a police officer?

22 A. No.

23 Q. Is he a civilian, then?

24 A. Yes.

25 Q. And your supervisor at that time, Mr. Trevino,

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1 did you receive more money as a result of having to
2 supervise other co-workers of yours?

3 A. No.

4 Q. But your supervisor recognized that you were a
5 competent person and qualified to supervise others back
6 then in November of 2006, right?

7 A. I'm not sure. I became a trainer at that time.

8 Q. Okay. And you became a trainer because you
9 took your job seriously back then, right?

10 A. Yes.

11 Q. Okay. And you knew your job and you knew --
12 you did it well; am I correct?

13 A. Well enough, I guess, to get -- to become a
14 trainer.

15 Q. And to train others -- other new hires in the
16 policies and procedures of the communications department
17 at the City of Weslaco?

18 A. Yes.

19 Q. Okay. And Ms. Olalde, when you as a dispatcher
20 receive a call either on the land line or on the 911
21 system, someone is calling and they're asking for your
22 help, correct?

23 A. Yes.

24 Q. And as a dispatcher and because you took your
25 job seriously and you were competent, your job was to

1 protect the citizens of Weslaco, correct?

2 A. Yes.

3 Q. And because of your job, you expected your
4 fellow co-workers at the dispatch department to share in
5 that responsibility of protecting the citizens of
6 Weslaco as well at all times?

7 A. Yes.

8 Q. And that's a lot of responsibility to be on
9 your shoulders. Would you agree?

10 A. Yes.

11 Q. It seems like that job could be stressful at
12 times.

13 A. At times.

14 Q. Okay. If you -- which one of the three shifts
15 would you say is the most stressful?

16 A. The mid shift, the 2:00 to 10:00.

17 Q. 2:00 to 10:00. And why is that?

18 A. That's the busiest, hitting 5:00. After 5:00,
19 that's when we get most of our calls.

20 Q. Okay. And back then, that used to be the 3:00
21 to 11:00 shift?

22 A. Yes.

23 Q. Okay. And as a trainer, you would -- when did
24 you start training fellow dispatchers?

25 A. In November of 2006.